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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,310	01/02/2004	Gerhard Lengeling	P3252US1 (60108-0097)	8798
46258 7590 03/12/2007 HICKMAN PALERMO TROUNG & BECKER LLP AND APPLE INC. 2055 GATEWAY PLACE SUITE 550 SAN JOSE, CA 95110-1089			EXAMINER WARREN, DAVID S	
			ART UNIT	PAPER NUMBER
			2837	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/12/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/751,310

Applicant(s)

LENGELING ET AL.

Examiner

David S. Warren

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-22,24-26 and 28-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,6-21 and 29-36 is/are allowed.
- 6) ☒ Claim(s) 22,24-26,28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/22/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 22, 24, and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In independent claims 22 and 25 the Applicant has amended the claims to include a step (in method claim 22) and a means (in apparatus claim 25) drawn to the "response to said audio manipulation." The method claim does not appear to actually manipulate audio prior to this step. The Examiner can interpret this claim in either of two ways: In the first way, the claim appears to process a given sound in response to an audio manipulation. Therefore, the claim appears to be both manipulating audio and processing sound. The Examiner can find no indication in the specification where sound is processed in response to a manipulation of audio data. The specification appears to indicate that manipulating audio is *synonymous* with processing sound. These claims are further obfuscated by the use of a "specific synthesis treatment." Thus, in these claims, there is audio manipulation, sound processing, and synthesis treatment. Synthesis treatment is used for processing, and processing is in response to audio manipulation. Thus, sound processing is a function of both synthesis treatment and audio manipulation. A second

way to interpret these claims, that the step (and apparatus) intended to process sound in response to the audio manipulation request (as originally filed). However, this is also confusing since this would imply that the sound processing is performed using the specific synthesis treatment data that is already in the audio file (and not any user-defined manipulation data). If this is so, how can the audio data ever be manipulated? In other words, the sound will always be processed by the data (i.e., synthesis treatment data) and cannot be manipulated in any way. The Examiner suggests that the Applicant meant to claim an additional limitation of "obtaining manipulation data" and "in response to said audio manipulation request processing said given sound using the manipulation data." The Examiner could not ascertain whether the Applicant intended "specific synthesis treatment" to include manipulation data. It appears from the specification that the treatment data is to be manipulated.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims ~~2~~ 22, 24 – 26 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by ACID TM (ACID User Manual, Sonic Foundry, Europe. 1999; hereinafter "ACID"). In view of the §112 rejection discussed above, the Examiner is interpreting the

claims 22 and 25 to include a response to a manipulation request (the second interpretation listed above). Regarding claims 22 and 25, ACID discloses the use of obtaining an audio manipulation request, i.e., to allow a user to vary (or manipulate) audio data (e.g., volume, pan, effects; page 54), determining whether the audio file contains synthesis treatment data (e.g., envelope data, page 54), and in response to a manipulation request to alter the audio file (or process the sound). The ACID product allows users to manipulate audio loops (including tempo, volume, etc.). The ACID format files contain data (treatment data) such as envelope, tempo, etc. Regarding claims 26 and 28, ACID discloses the use of sample data associated with an audio waveform (all *.wav, *.acd, and *.aif files are sampled data files of an audio waveform), and data that sets forth specific synthesis treatment to be used for processing a given sound (e.g., the envelope data on page 54 is deemed to be data that sets forth a specific synthesis treatment for processing the sound). Regarding claim 28, the set of audio playback parameters are deemed to be pan and FX (pg. 54).

Allowable Subject Matter

5. Claims 1, 2, 6 – 21, and 29 – 36 are allowed. The prior art does not disclose obtaining waveform data and storing it as a first file, obtaining MIDI data and storing as a second file, obtaining synthesis parameter data and storing as a third file, obtaining playback parameter data and storing as a fourth file, wherein all the files are stored in the same format, i.e., all four data sets are stored in a single format.

Response to Arguments


6. Applicant's arguments with respect to claims 22, 24-26 and 28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to David Warren at telephone number 571-272-2076.


LINCOLN DONOVAN
SUPERVISOR EXAMINER